

The Louisiana Department of Environmental Quality:



Enforcement Process



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Regulatory Goals for Enforcement

- **To assess penalties in a consistent, fair, and equitable manner**
- **To assess penalties that are appropriate for the gravity of the violation committed**
- **To eliminate the economic incentives for non-compliance**
- **To deter future non-compliance**
- **To achieve and maintain compliance**



Building a Caseload: Two Methods

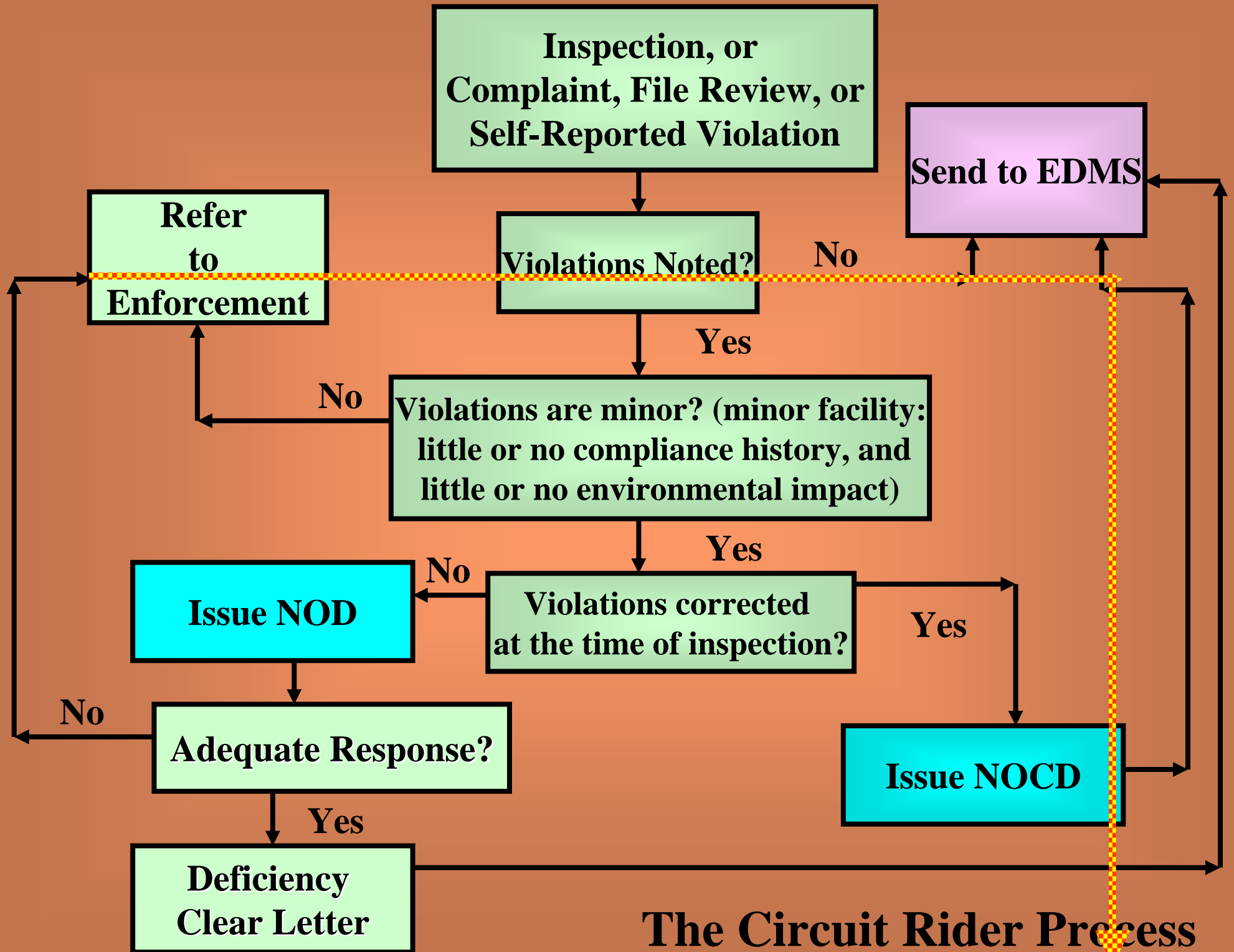
- **File Review Process**
 - Title V Reports - Annual, Semiannual, & Quarterly Deviation Reports
 - Specific Condition Reports, Release Notifications, General Condition XI reports, & Self-Reported Violations
- **Referral Process**
 - Surveillance – Complaints & Inspections
 - Air Toxics
 - Emission Inventory
 - Engineering
 - Permits

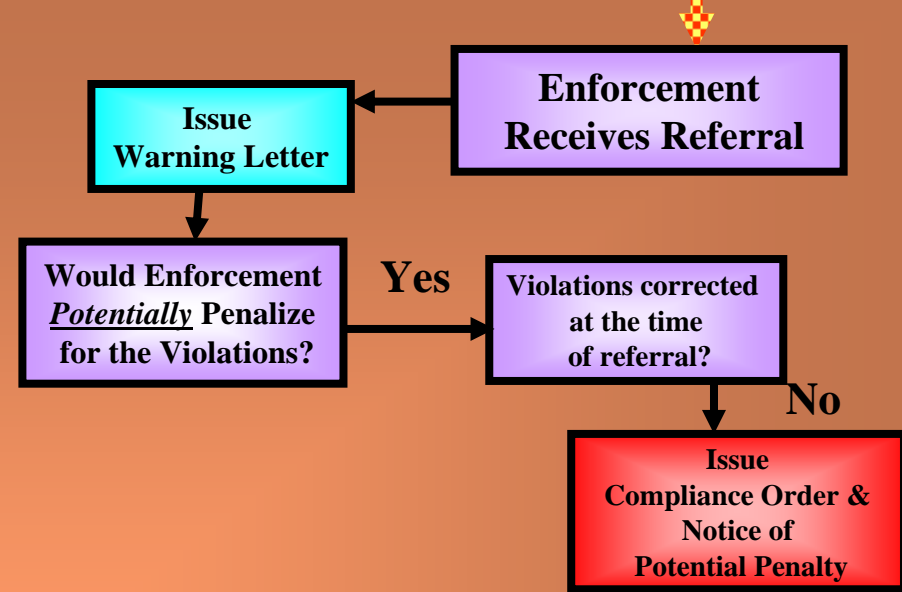


Enforcement Process: The Whole Picture

- **Circuit Rider Process**
- **Enforcement Process**
- **Settlement Process**
- **Appeal Process**



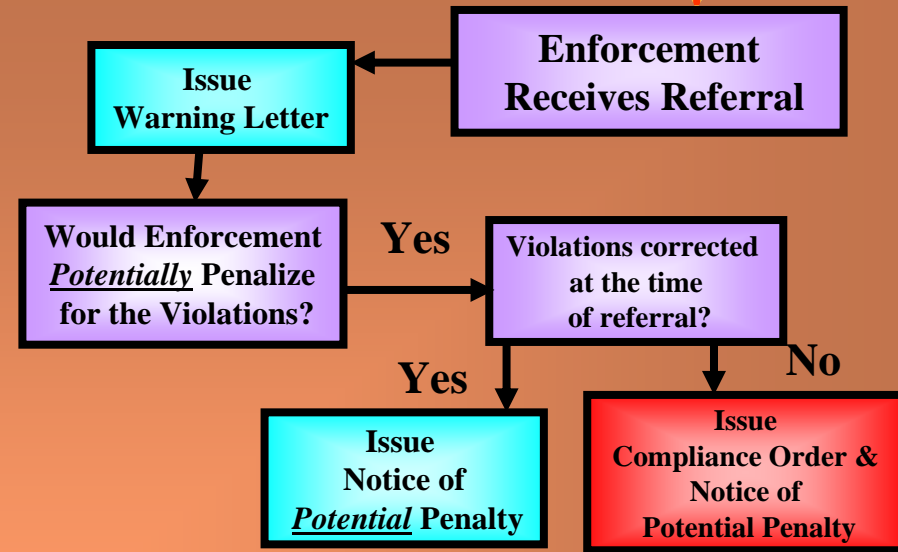




Formal Enforcement Process

Enforcement Actions: Injunctive Relief (continued)

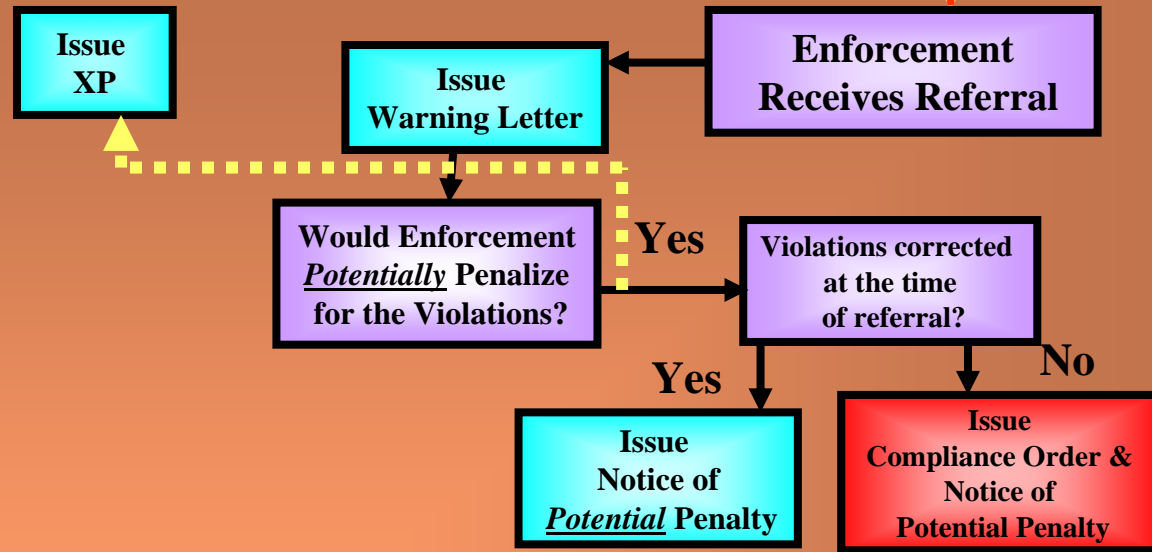
- **CO: Compliance Order**
 - **Cites violations**
 - **Pursuant to La. R.S. 30:2050.2(B)**
 - » **must be reasonably specific**
 - » **must specify a timeframe for compliance**
 - » **must notify of right to appeal**
 - » **must advise that penalties are possible**
 - **May be combined with NOPP (CONOPP)**
 - **Requires written report**
 - **Requires Respondent to do something or cease doing something**



Formal Enforcement Process

Enforcement Actions: No Injunctive Relief (continued)

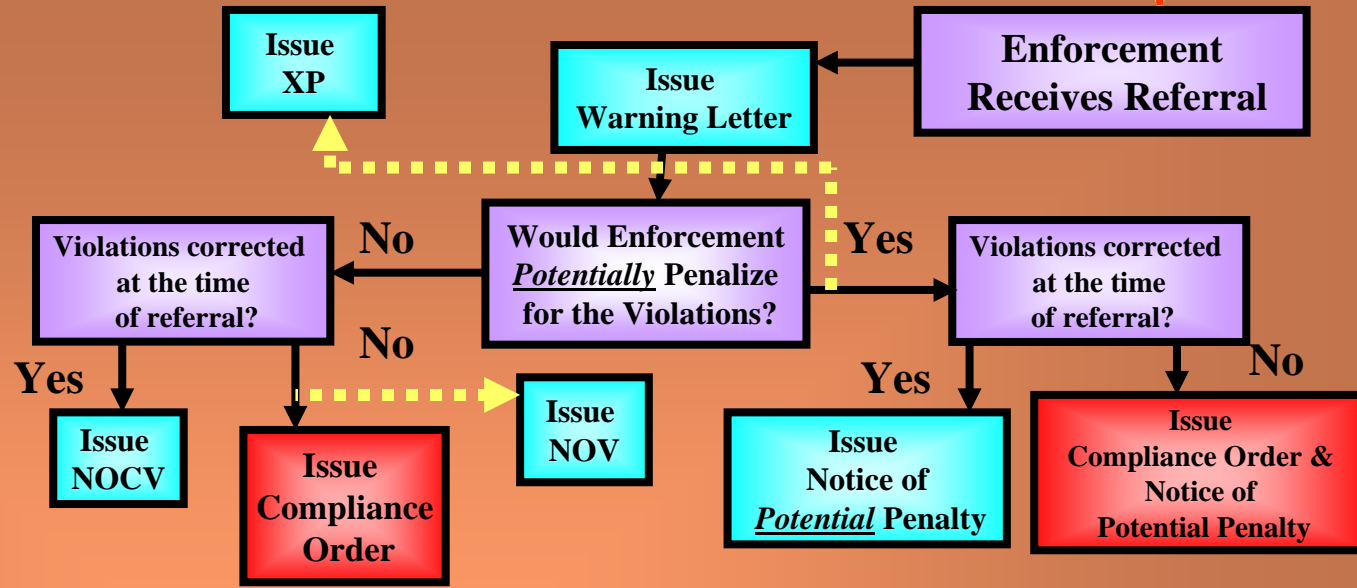
- **NOPP: Notice of Potential Penalty**
 - **Cites violations**
 - **Pursuant to La. R.S. 30:2050.3(B):**
 - **notifies of possible penalty (after 10 days)**
 - **must be reasonably specific**
 - **allows for written comments**
 - **Cannot be appealed**



Formal Enforcement Process

Enforcement Actions: No Injunctive Relief

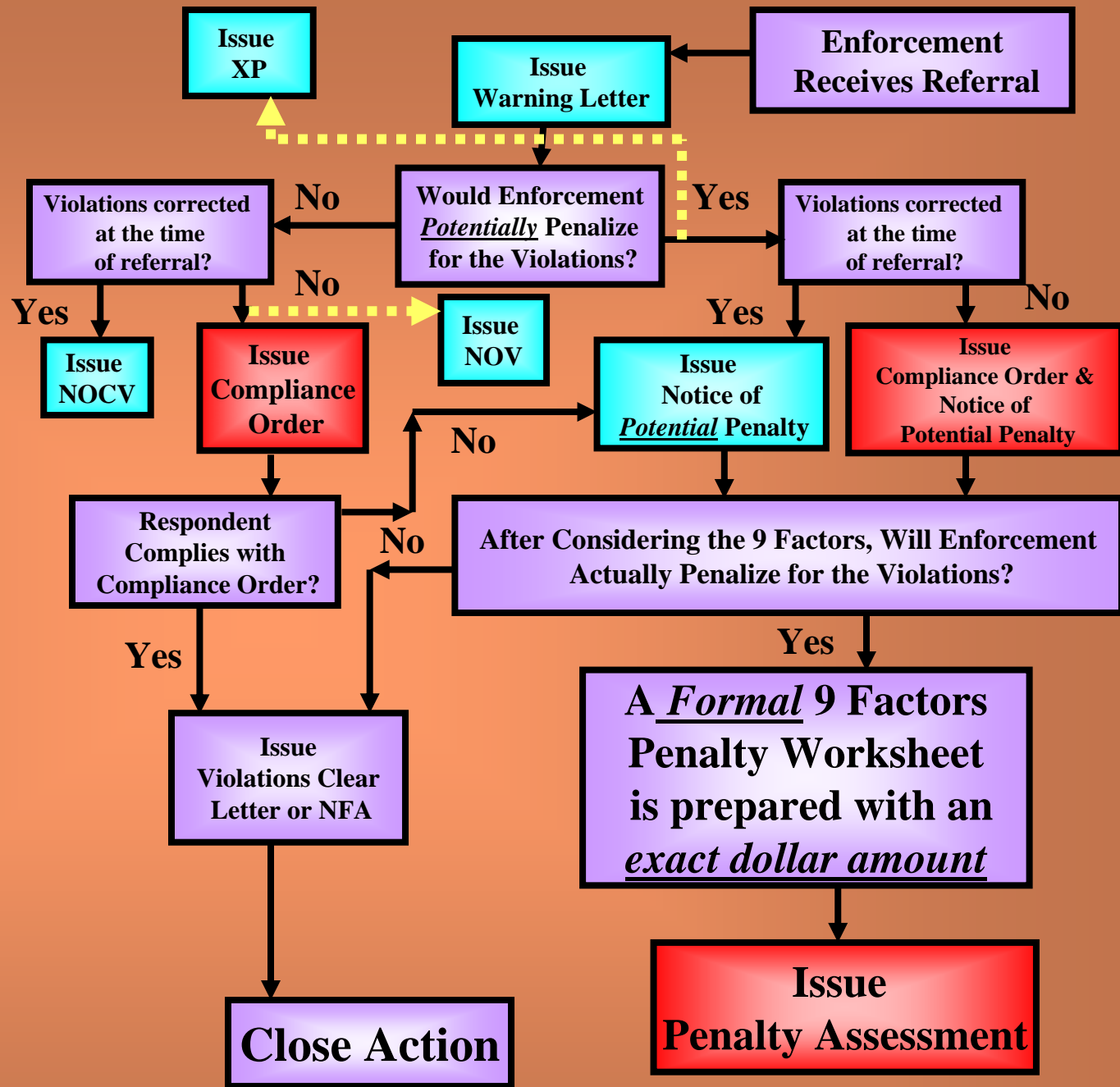
- **XP: Expedited Penalty Agreement**
 - **Cites minor violations with predetermined penalty amounts**
 - **Injunctive Relief – NO**
 - Its voluntary. Otherwise NOPP**
 - **pay fine**
 - **must correct violations**
 - **cannot be appealed**



Formal Enforcement Process

Enforcement Actions: No Injunctive Relief

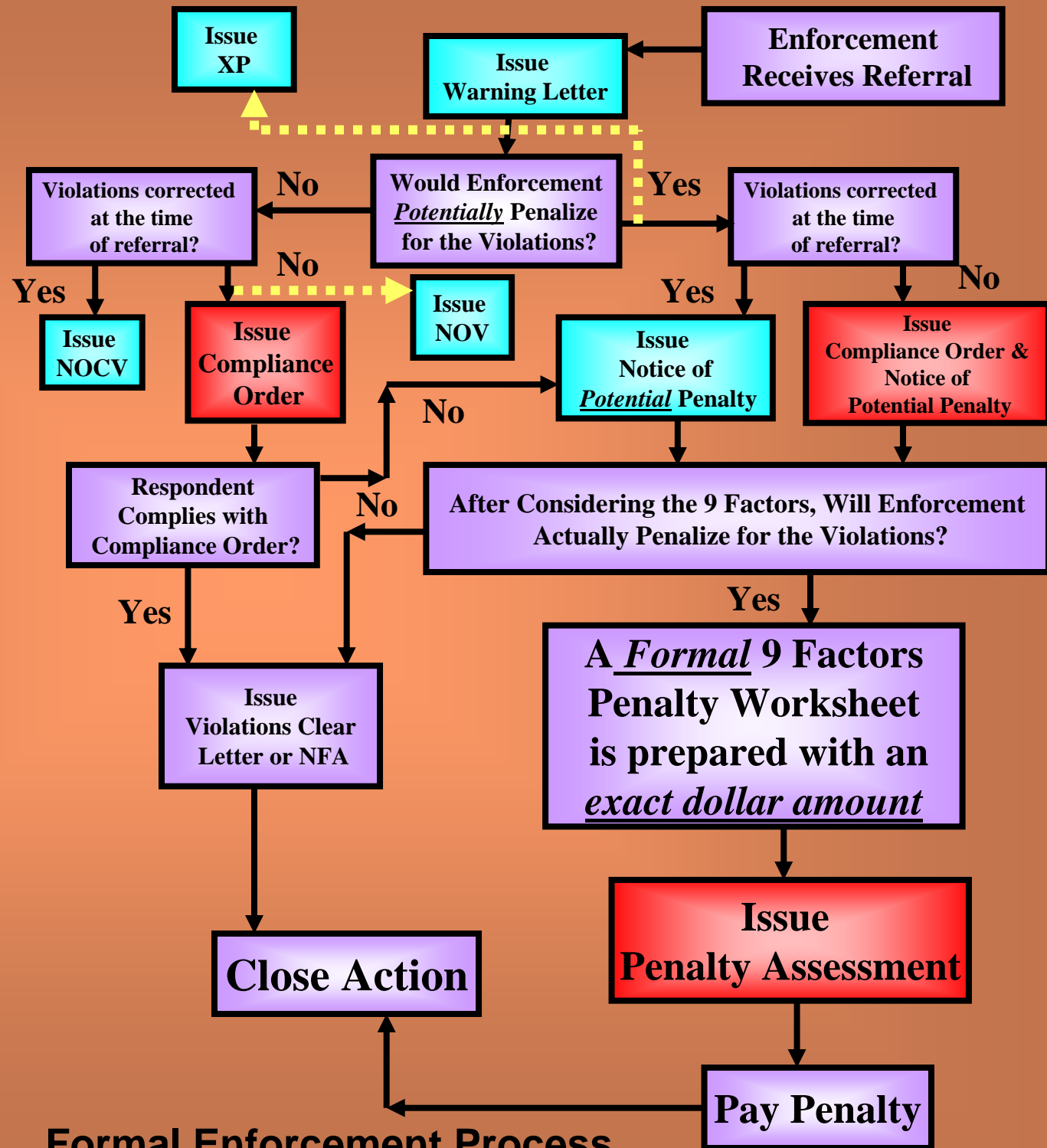
- **NOCV: Notice of Corrected Violation**
 - Cites minor violations
 - States violations have been corrected
 - cannot be appealed
- **NOV: Notice of Violation**
 - Cites minor violations
 - cannot be appealed



Formal Enforcement Process

Enforcement Actions: Injunctive Relief (continued)

- **PA: Penalty Assessment**
 - **Cites violations**
 - **Pursuant to La. R.S. 30:2050.3(C)(2)**
 - **must be reasonably specific**
 - **must indicate the amount of the penalty**
 - **must notify of right to appeal**
 - **Must assess against factors outlined in La. R.S. 30:2025 (E) and LAC 33:I.Chapter 7**



Formal Enforcement Process

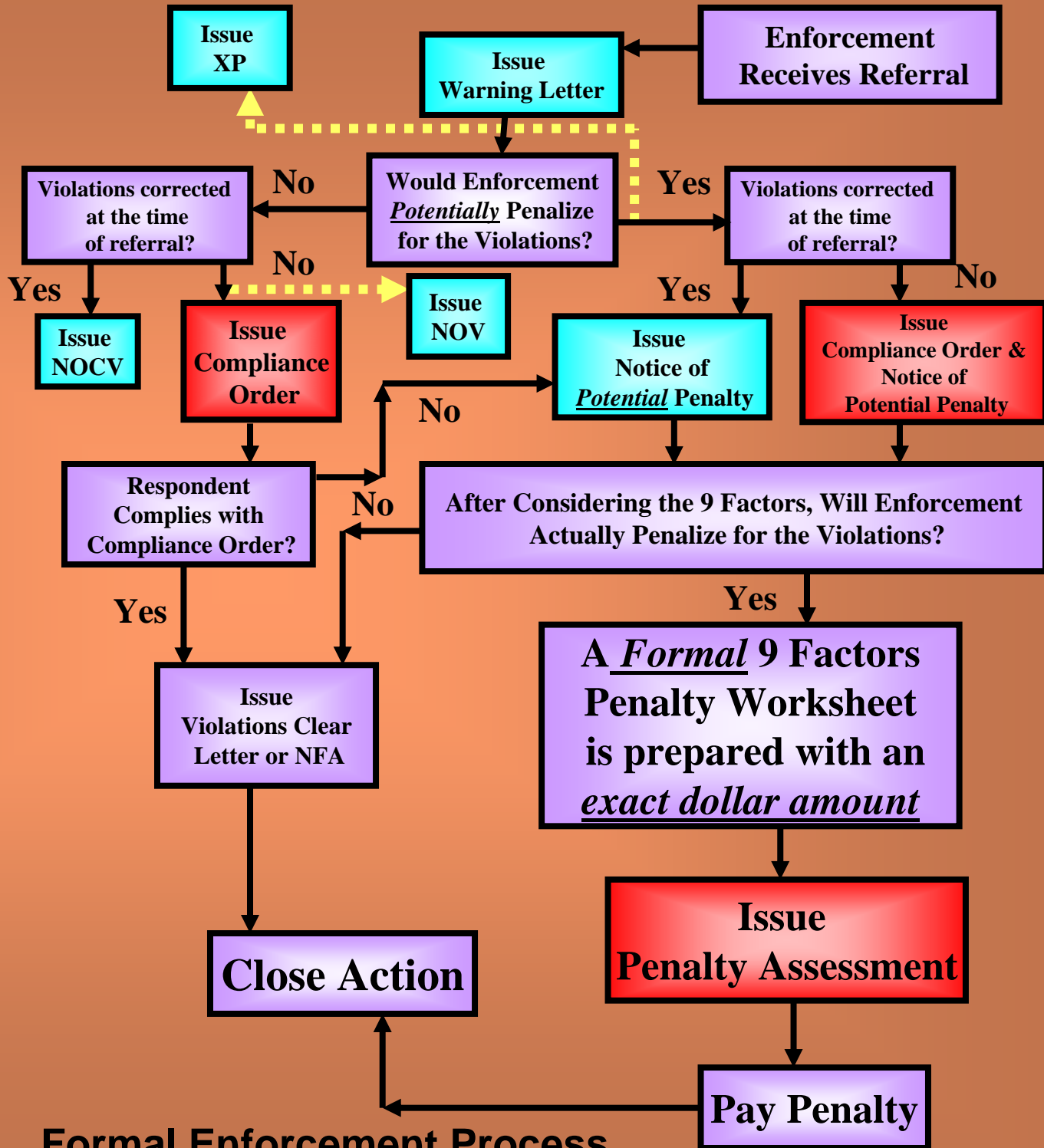
Injunctive Relief

An order that forbids a person or company from doing something, or orders them to take certain action....

Examples:

- Submit Title V Reports**
- Pay a fine**
- Install control equipment**
- Comply with interim limits**

The Start of Settlement Negotiations



Settlement Process

Formal Enforcement Process

Enforcement Actions: Injunctive Relief (continued)

- **SA: Settlement Agreement**
 - **Cites violations**
 - **Must assess against factors outlined in La. R.S. 30:2025 (E) (no requirement for Chapter 7)**
 - **Requires Respondent to do something or cease doing something**
 - **Must be public noticed**
 - **Must get AG concurrence**
 - **May hold public hearing**

ex parte

The Appeals Process

quid pro quo

Courthouse

Executory

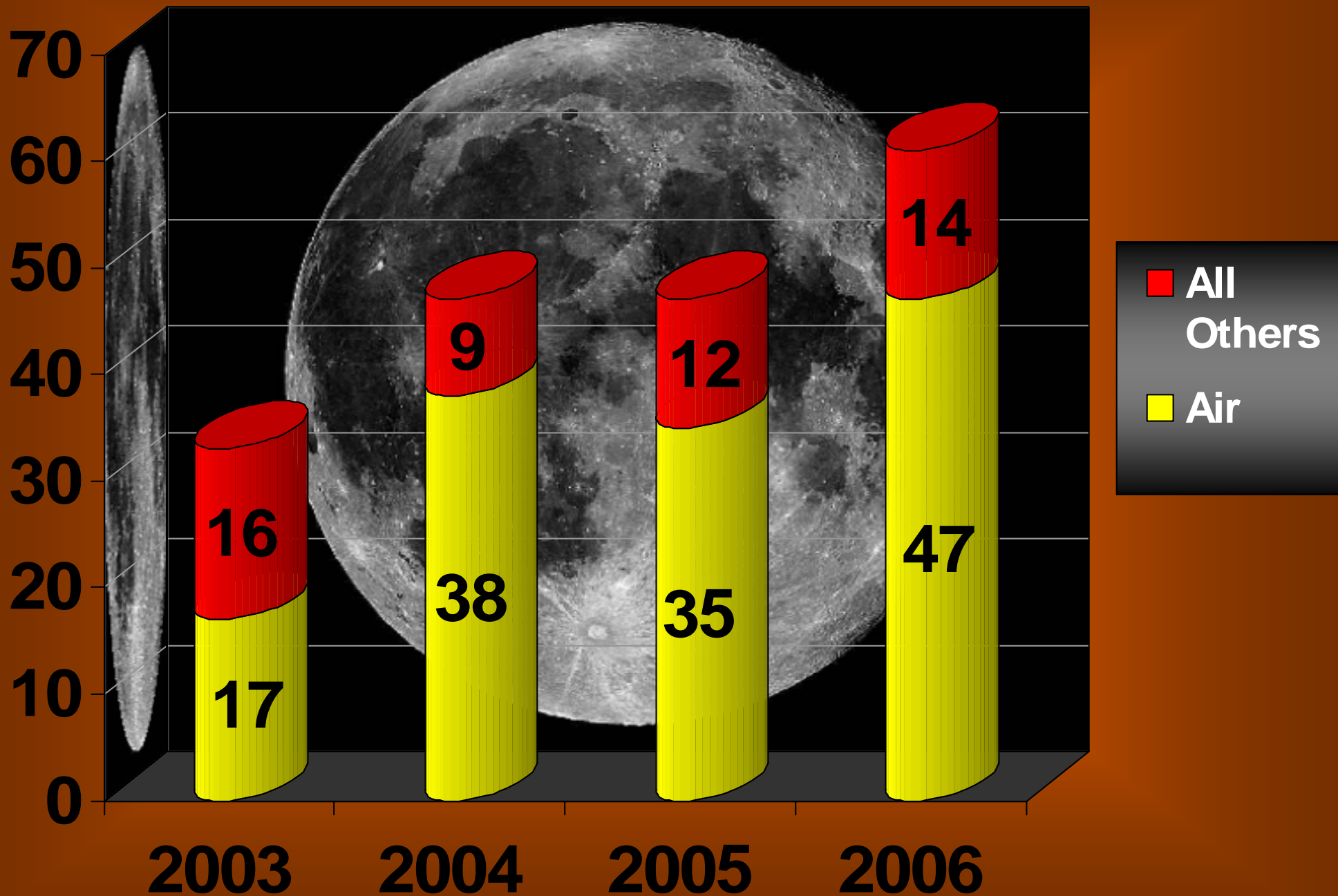
trial de novo

Force Majeure

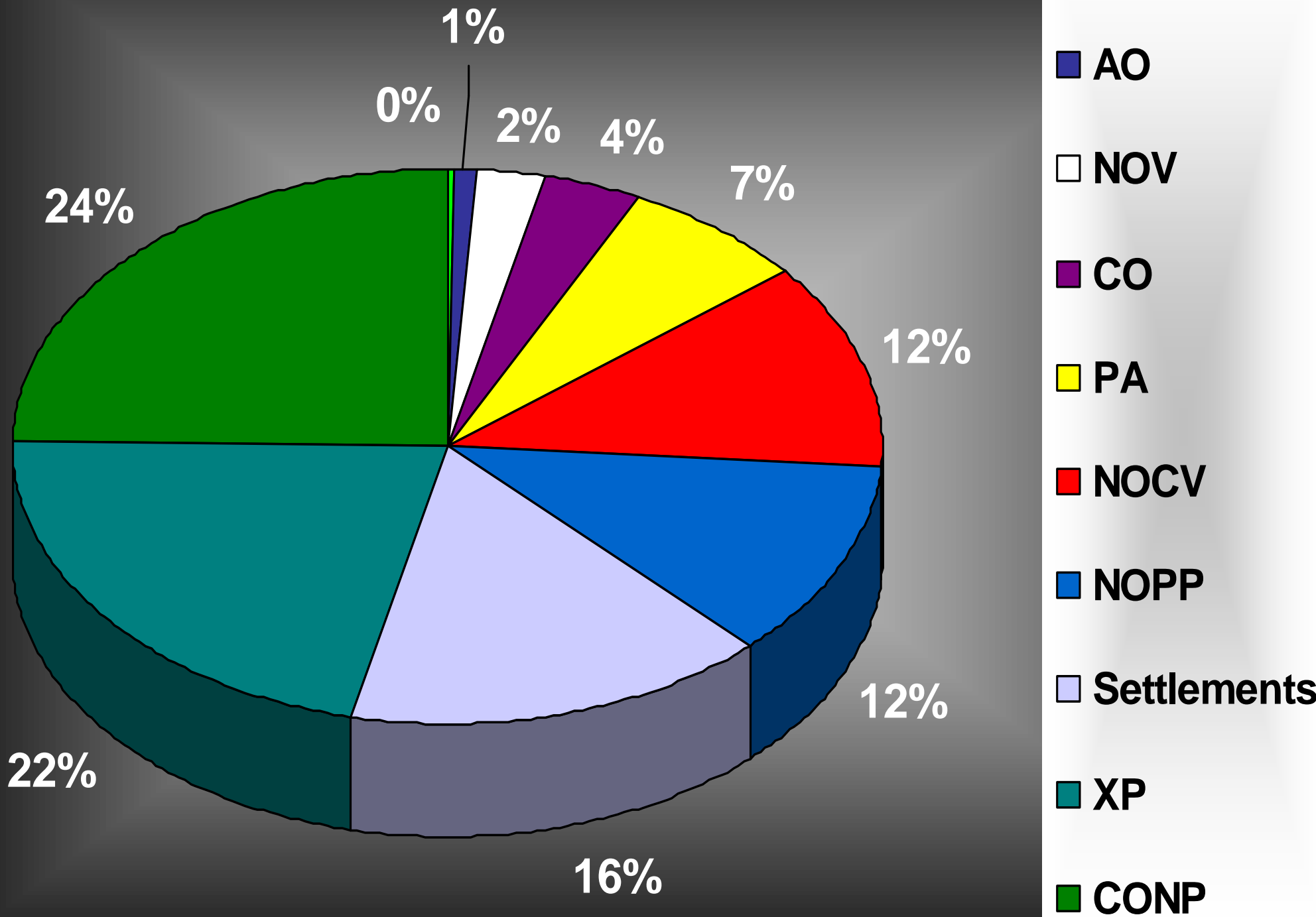
Appeals

- Respondent has 30 days from receipt to appeal.
- Appeal requests must be specific
- If appeal is requested, the Secretary has 30 days to grant or deny appeal.
- Both Respondent and Department may elect for informal dispute resolution. During informal dispute resolution, the 30 day requirement to grant or deny is postponed for up to 1 year.
- Only COs, CONOPPs, and Penalty Assessments can be appealed.
- If action is not appealed and compliance is not achieved during the prescribed timeframe, Enforcement may petition to make the action Executory.

Proposed Settlements 2003-2006



Air Action Types January 1, 2006 to Present



Enforcement Meetings by Media -2006

